

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

\* \* \*

KARRI GARIS,

Plaintiff,

v.

GYPSUM RESOURCES MATERIALS, LLC,  
*et al.*,

Defendants.

Case No. 2:16-cv-02534-APG-VCF

**ORDER DENYING MOTION FOR  
SETTLEMENT CONFERENCE**

(ECF No. 42)

On May 1, 2018, I ordered plaintiff Karri Garis to show cause why her claims against defendant James Rhodes should not be dismissed for failure to prosecute them. In response, Garis requests that I order Rhodes to appear at a settlement conference to determine whether he intends to defend himself in this case. Garis's request flips the parties' burden in litigation. The plaintiff has the responsibility to move her case forward. Rhodes appeared in this case through counsel and, for a while, actively defended. Rhodes's counsel subsequently withdrew and Garis has taken no action against Rhodes in the nine months since then. The deadline for filing the Joint Pretrial Order passed long ago and nothing was filed. It is not Rhodes's burden to move Garis's claims forward.

Garis anticipates that Rhodes will not attend a settlement conference, in which case his answer can be stricken and default entered against him. But settlement conferences are not to be used as strategic tools, and the judges in this district usually do not order settlement conferences unless both parties express a willingness to participate in good faith.

Garis's counsel should instead attempt to contact Rhodes to determine whether he intends to defend this case and participate in a settlement conference. If Rhodes does not respond or declines to participate, Garis's counsel should send Rhodes a draft Joint Proposed Pretrial Order. If Rhodes refuses to participate in the preparation of that document, then Garis should file her

1 individual version and request sanctions, which may include striking Rhodes's answer and  
2 entering default. I will extend the deadline for Garis to file a Proposed Pretrial Order.

3 IT IS THEREFORE ORDERED that plaintiff Karri Garis's motion for a settlement  
4 conference (**ECF No. 42**) is **DENIED WITHOUT PREJUDICE**. It is further ordered that the  
5 parties shall submit their Joint Proposed Pretrial Order within 30 days of entry of this Order. Failure  
6 to do so, or failure to participate in good faith in the preparation of that Joint Proposed Order, may  
7 result in sanctions including striking claims and defenses and entering default.

8 DATED this 17th day of May, 2018.

9 

10 \_\_\_\_\_  
11 ANDREW P. GORDON  
12 UNITED STATES DISTRICT JUDGE  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28